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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,575	03/01/2004	Darcie Woodruff Perkins		7956

7590 10/18/2007
Darcie W. Perkins
150 O'Neill Ranch Rd.
Dripping Springs, TX 78620

EXAMINER

STERLING, AMY JO

ART UNIT	PAPER NUMBER
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3632

MAIL DATE	DELIVERY MODE
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10/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/789,575

Applicant(s)

PERKINS, DARCIE WOODRUFF

Examiner

Amy J. Sterling

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

This is the first Office Action for application number 10/789,575 Window Box and Mounting System, filed on 3/1/04. Claims 1-9 are pending.

Election/Restrictions

Claims 1 and 7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/28/07.

Claims 8 and 9 are also considered withdrawn because they are dependent upon withdrawn claim 1 and could not further be examined.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites, a T-shaped fastener and also "the fastener" and it is unclear if these are two different fasteners or are the same fastener. If they are two different fasteners, they should be called first and second fastener. Also, the second fastener has no antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5375802 to Branham, II.

The patent to Branham, II discloses a window box system including a mounting bar (3), the mounting bar having a C-shaped configuration (4), a fastener (28, 31) having a T-shaped fastener slidably received within the C-shaped mounting bar, the fastener (12') passing through the window box (12) and having means (19) for tightening the window box into the mounting bar and an attachment bar (13, 14) mounted at a rear of the window box being sandwiched between the window box and

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the mounting bar and a support bar (16) mounted at the rear and the bottom of the window box.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5375802 to Branham, II. as applied to claim 2 above; and in view of United States Patent No. 5368267 to Howard.

Branham, II discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the tightening means is a wing nut or that the device is mounted to a window sill.

Howard teaches a window box system mounted to a window sill (36) including a means for tightening that is a wing nut (34), used to securely tighten a bolt or screw to the desired area for hanging a window box. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Howard to have used a wing nut for the tightening means in order to securely fasten the desired elements to the desired place.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various window box systems or C-shaped channel members

6796539 to Tilton

5738319 to Grassi

5269095 to Helfman et al.

4945460 to Von Kohorn

3800470 to Kleine


2719691 to Vance

2966272 to MacKenzie

1955476 to Torgersen

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (Mon-Fri 8am-5:00pm). The fax machine number for the Technology center is 571-273-8300 (formal amendments), informal amendments or communications 571-273-6823. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.

Amy J. Sterling
10/13/07


AMY J. STERLING
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600